

Column: “Trademarks”

Trademarks



Mr. Takao Ogiya
Director General of APIC

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In Japan, in addition to letters, graphic forms, symbols and three-dimensional shapes, as of April 2015, marks of colors, sounds, positions, motions and holograms can also be registered as trademarks.

The essential function of trademarks is to distinguish products and services from each other and identify their origin. This function guarantees the quality of a product and service, allowing trademark users to maintain their business credibility and thereby protecting consumer interests.

The history of marking for identification is quite long. There is a mark on the belly of a bison drawn on a cave wall earlier than 6000 BC. According to historians' analyses, this is the mark of the owner of the bison. Owner's marks are also found on bricks, pottery, and roof tiles made during an Egyptian dynasty around 3000 BC. Seals are impressed upon bricks used during the Roman Empire from about 500 BC to 500 AD, and it is known that trademarks were already used for economic purposes during this era.

In around the 12th century, craft guilds were started in Europe, when the purpose of the marks changed significantly. Until then, they had been used simply to display the origin of the product, but under the control of the guilds, marks were used to guarantee the product quality and protect consumer interests by only allowing guild members to use the marks for high-quality products. Marks thus began serving as licenses for guilds to monopolize profits. Despite such unfairness, the use of trademarks spread during this period as a means to guarantee product quality and maintain product credibility.

In the 13th century, the first trademark law was established in England. In 1452, a trademark-related lawsuit was filed wherein the primary issue was whether a widow had the right to inherit her late husband's trademark rights. The first trademark infringement occurred in 1618 concerning an imitation of a high-quality clothing fabric.

As industry developed rapidly in Europe and the United States in the mid-19th century, France, England and the United States implemented trademark laws. In response to the internationalization of business transactions accelerated by the development of trade, a global agreement on trademarks was signed at the Paris Convention in 1883.

Reflecting on the aforementioned history, I think it is natural that the advancement of in-

formation technology, including the Internet, and the globalization of the economy, have a considerable impact on trademark systems. The recent revision to the system in Japan can be considered an appropriate response to align with the global trend.

If we closely review the recent revision to the Trademark Law, based on the above-mentioned historical recognition, we can see that the newly added items allowed to be registered as trademarks are limited to those that can be digitized, such as colors, sounds, positions, motions and holograms. Smells and tastes can also be used for identification purposes but were excluded this time due to the difficulty in determining the degree of their discrimination capability. In the future, however, if further improvement in information technology enables us to discriminate between smells and tastes more accurately, it would become possible to use and protect them as trademarks globally.

As I mentioned in the previous column, the age of sensitivity has arrived. If there is a system that can appropriately protect new products and services created by people with excellent sensitivity, it would serve as an incentive to create innovations.

In response to the increasing necessity and importance of discrimination capabilities, I believe that it is important for us to each establish our own discrimination capabilities, that is, our own identities. During the age of mass production of a small variety, mass production workers were in demand, and products and services with homogeneous quality were highly appreciated. Workers equipped with certain abilities and skills were valued at that time. In this age when consumer needs have to some extent been satisfied, however, people are demanding unique products tailored to their individual sensitivities and services intended exclusively for them, and are ready to pay high prices for these. In such an age, uniqueness and skill specialization can create added value, and people with unique personalities and a one of a kind factor may be highly appreciated.

Trademarks that retain high value are called brands. Therefore, what is possessed by people with unique personalities and who are one of a kind can be regarded as their “personal brand.” Brands are valuable intangible and intellectual assets. Companies are expending considerable amounts of money, energy and ingenuity to brand their products and services and, furthermore, their company image.

Now, how about branding yourself?

